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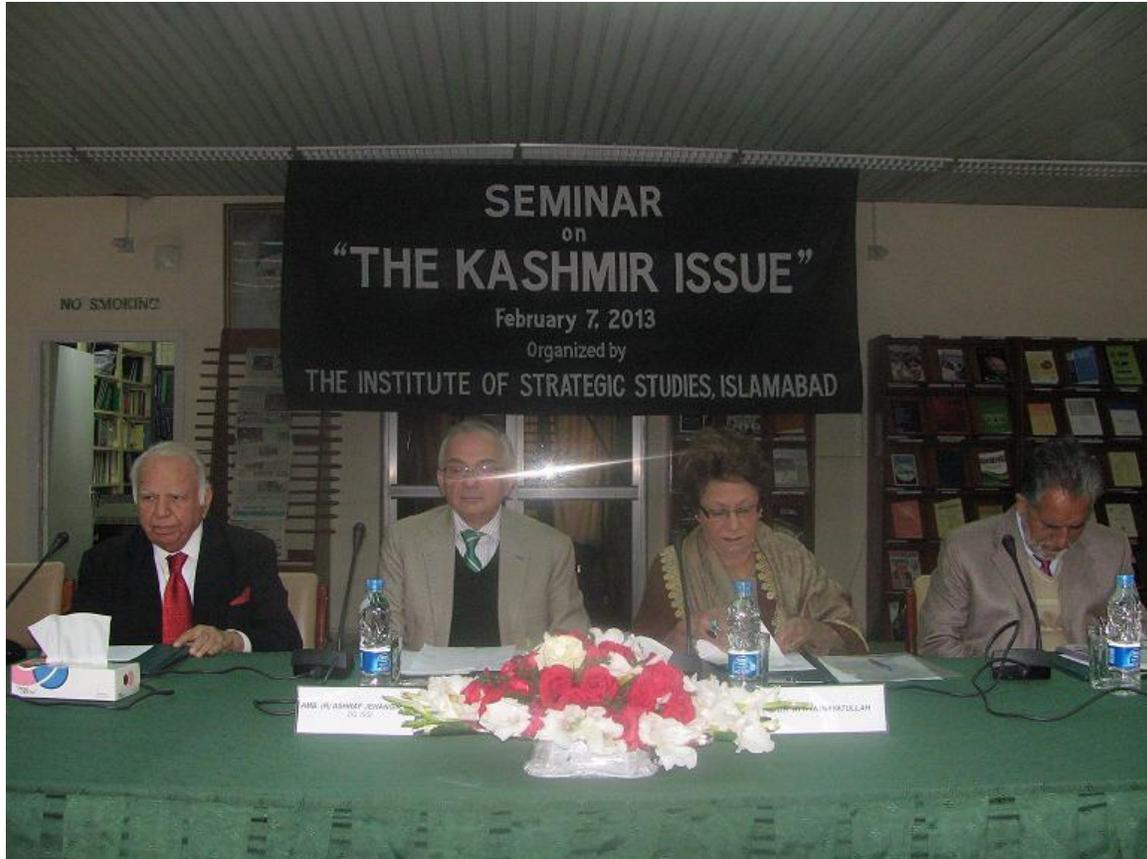
The Kashmir Issue

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**THE INSTITUTE OF STRATEGIC STUDIES,
ISLAMABAD**

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A Seminar was held at the Institute of Strategic Studies Islamabad (ISSI) under its Distinguished Lecture Series 2013 on *"The Kashmir Issue"*. The event was organised to commemorate the Kashmir Solidarity Day observed every year on 5th of February. The speakers at the Seminar included members of the Parliamentary Special Committee on Kashmir Senator Haji Mohammad Adeel (ANP), Dr Attiya Inayatullah, MNA (PML), Engr. Khurram Dastgir Khan, MNA (PML-N), Mr. Mohammad Seeed Khalid, former Ambassador, Mr Akram Zaki, former Secretary General, Ministry of Foreign Affairs and Mr Yusuf Nasim, APHC 9AJK Chapter).

Welcoming the speakers and the guests, the Director General (ISSI) Ambassador (Retd) Ashraf Jehangir Qazi said that Pakistan's solidarity with Kashmir is a matter of

primary priority. Kashmir is number one issue of Pakistan's foreign policy. He said that Kashmir Day is an occasion to reiterate Pakistan's principled support of the rights of the Kashmiri people, rights that are recognised by the international community, rights that are embodied in the UN resolutions and are part of the international law, rights that have not been exercised because of the policies of India. Pakistan will remain true to its principled stand. However, Pakistan also has to take note of the fact that it needs to provide a kind of support to the people of Kashmir that ensures progress towards the exercise of their political rights which are internationally recognised and are not time bound in any way and that the human rights conditions in occupied Kashmir improves. How should Pakistan go about it? There are many serious questions here. Pakistan has to take account of what the realities are. Rhetoric is great and rhetoric has a role to play. The reiteration of the principle has a role to play and deviation from principled stand is bad. But at the same time, adopting strategies which have no hope of success, adopting strategies which are articulated rhetorically but do not find expression in consistent practice on the ground does not translate into the genuine support for the Kashmiri people. Pakistan needs to reflect on how effective it has been in the assistance it has provided to the Kashmiri people. The record is mixed. In 1948, there was the first war over Kashmir and if that war was not fought maybe the "Azad Kashmir" would not have been "Azad". After that it was the 1965 war which led to Tashkent. Tashkent was where unfortunately the defeat of the attempt to liberate people of Kashmir found expression because there was hardly any mention of Kashmir except a reference to the problem. In 1971, the war between India and Pakistan did not take place over Kashmir but it led to the Simla Agreement. This agreement became a basic document in India-Pakistan relations over Kashmir along with the UN resolutions. According the Ambassador Qazi, the fundamental document with regard to Kashmir should be exclusively the UN resolutions on the subject. However, Simla document also came into being which talks about the Line of Control and the need for two parties to respect that Line of Control.

However, Pakistan maintained its position with regard to the Kashmir situation and praise must go to Pakistan's former Prime Minister late Zulfikar Ali Bhutto that with

empty hands he was able to negotiate an agreement in which Pakistan managed to preserve its position. Nevertheless, it reflected the outcome of the 1971 war in the sense that for the whole decade Pakistan barely raised the issue of Kashmir in the UN after that and the international community began to see Kashmir as a bilateral issue.

In 1988 when the Soviets withdrew from Afghanistan, there was a new phase in Kashmir where there was an uprising by the JKLF which was joined by other Kashmiri parties. It was not clear at that time what Pakistan's policy really was and there was ambiguity with regard to what the strategy was and what the outcome would be. Afterwards, that uprising which led to colossal sacrifices by the Kashmiri people did not lead to the achievement of their freedom objectives.

In 1999, there was the Kargil incident. Kargil was the tragedy by any measure. It was the most unfortunate development. There was no planning and the outcome of Kargil was unfortunately inevitable. As a result of Kargil, instead of the right of self-determination of the Kashmiri people being highlighted, the need for Pakistan to respect the LoC was highlighted. This was a major betrayal of the Kashmir cause as instead of achieving something, it led to a major loss. Kargil was followed by 9/11 where Pakistan on many issues reversed its position and with regard to Kashmir, the international community began to see any armed freedom struggle as a terrorist movement unless it was approved by Washington or other western capitals. Hence, because of Kargil and 9/11 and Pakistan's response to it, the Kashmir issue went completely on the back burner and the sacrifices by the Kashmiri people appeared to have gone in vain.

In 2003, after the standoff between India and Pakistan when there was an eyeball to eye-ball confrontation on the border, General Musharaf made a statement that Pakistan can set the UN resolutions aside and try to find some mid ground with India over Kashmir. This was a statement of most serious irresponsibility. The UN resolutions embodied the rights of the Kashmiri people. No Pakistani gave those rights

to the Kashmiris and no Pakistani has the right to withdraw those rights because those rights are of the Kashmiri people. This criminal policy statement was then further exacerbated when Indian Prime Minister Vajpayee came to Islamabad and in a joint statement, Pakistan practically reiterated the same position and so Pakistan was seen, despite all the advice that the Foreign Office was giving, to be moving away from the UN resolutions which was the central plank of Pakistan's Kashmir policy. Without the Security Council resolutions being recognised as current and permanent until implemented, Pakistan would not be legally a party to the Kashmir dispute. Pakistan can only be a party to the Kashmir dispute by virtue of the UN resolutions and Kashmiri people can only challenge the Indian claim of accession to India with reference to the UN resolutions. With Pakistan's setting aside the UN resolutions, Indian stance that Pakistan is not a party to the dispute, and there is no dispute but just a problem created by Pakistan and Kashmir is an integral part of India would stand legally almost unchallenged. So those statements made by the then President of Pakistan was a stab in the back for the Kashmiri people from which it has been very difficult to recover. Due to the efforts of the Foreign Office, Pakistan managed to re-establish its claim that UN Security Council (UNSC) resolutions remain the basis of the Pakistan's policy for Kashmir. The years 2004-2007 saw efforts through back channel process to try and reach a solution. Back channel is always a useful instrument in diplomacy between the two countries. It is meant to deal with problems. It is known as trouble shooting mechanism. However, this process does not try to resolve the whole problem as back channel has to surface for it to mean anything. Nonetheless, it is now known that back channel negotiations involved agreement on several points. It involved the territorial status quo being recognised by both sides but some joint mechanisms being brought into play and it was about the period of some fifteen years which could then be accepted or not accepted. The impact of this back channel negotiation was that it divided the opinion in Pakistan and also divided the APHC. There is a strong body of opinion which argues that given the realities, there is no other basis on which to make progress other than something like the back channel. This is a matter that should surface for public debate in Pakistan, Azad and Occupied Kashmir, so that people can express their opinion on this

matter because ultimately, whether back channel or open channel, any solution should be in conformity with UNSC resolutions. The UNSC resolutions give two options. Some people today talk about the need for third option. But UN resolutions do not confer it right now. To oppose this third option is the only point on which India and Pakistan agree. Pakistan refers to the UNSC resolutions which do not talk about third option. India talks about whole of Kashmir being part of India and therefore, third option is irrelevant as far as India is concerned. So the irony is that the third option, which may or may not be the preference of the people of Occupied Kashmir to some extent, is totally rejected by both India and Pakistan. But there is an answer to this in the Constitution of Pakistan which everybody seems to have ignored. Article 257 of the Constitution of Pakistan says that when the Kashmiris are able to exercise their right of self-determination through the plebiscite conducted by UN, should the Kashmiris decide in favour of Pakistan, the relationship which they have with Pakistan will be determined by the representatives of Kashmir, by the people of Kashmir themselves. They may choose to have a looser relationship or a tighter relationship with the government in Islamabad than the provinces. They can choose any relationship and this gives them the essence of the third option within the Pakistani option. So why is there a difference between the Pakistan option and the third option? There is no difference except that the third option is opposed by both India and Pakistan and has zero percent chance of reality whereas the Pakistan option, if the people of Kashmir unite behind it, can become the basis for a joint negotiating position between Pakistan and the entire people of Occupied Kashmir viz-a-viz India. This will, over a period of time, given the improvement in India-Pakistan relations and given the flexibility on the part of India which is zero right now, be a much better chance for Pakistan to negotiate from a stronger position. The Kashmiri rights are there and Pakistan supports them but it has not been consistent in practical terms in its support for these principles.

Dr. Attiyah Inayatullah, speaking at the occasion, referred to the Kashmir struggle as the 'Kashmir Spring' and deplored the fact that the 'Kashmir Spring' has not been highlighted as 'Arab Spring' has been on all the fronts. She articulated that this

emerged in the summer of 2008 and gathered steam in 2009 and 2010. She said that the entire world saw people of Kashmir fight with stones for “Azadi” and in response they were maltreated and thrown in jail by the Indian forces. Situation got further deteriorated with the 2010 “Jail Bharo Tehreek” by Indian forces with harsh curfew and shoot at sight orders. She said that the Kashmir struggle has always been non-violent but people of Kashmir have been inflicted with violence. She held that India did not provide space for the peaceful resolution of the Kashmir dispute and instead opted for harsher measures to crush the freedom movement. The struggle within Kashmir is to awaken the conscience of world and for this the movement has to be sustained. She said that peace in Kashmir is indispensable if international community want peace in Kabul. Dr. Inayatullah said that the people of Kashmir are not working on any agenda. It is an indigenous struggle and is solely for their self-determination. She emphasised the fact that for the resolution of Kashmir, hypocrisy and double standards cannot work. She opined that Pakistan’s trade and cultural ties with India must not undermine its stance for the resolution of the Kashmir issue. Keeping this fact in mind, Pakistan should cooperate and collaborate with India. She said that Kashmir is the frontline of the region so Pakistan should work for the peace in Kashmir with the notion of “Peace first then Friendship”.

Engr. Khurram Dastgir Khan was of the view that after the incidents of 9/11 and attack on the Indian Parliament, the international community had lost its interest in Kashmir. From 2008-2010 Pakistan had many opportunities to regain that focus but unfortunately, all those opportunities were lost. Today, it is felt that the Kashmir issue is fading away. A lot of progress is being made in the areas of trade and economy which is good. But at the same time, Pakistan should make sure that the issue of Kashmir does not lose its importance. He also demanded that all draconian laws like AFSPA and Public Safety Act should be revoked.

Senator Haji Mohammad Adeel, while expressing his thoughts on the subject, said that Kashmir is unfinished issue of the Subcontinent for years and still it is to be

resolved which is unfortunate for all. He said that Pakistan, for a stronger position on Kashmir, should work to resolve its own internal crisis. He said that Kashmir should be given the status it had in 1952. Haji Adeel deliberated that Pakistan should amend its constitution to ensure participation of minorities to contest for the seat of head of state or head of government, and this action would built up the confidence of Kashmir minorities (Buddhist etc) to join Pakistan. He held that Kashmir issue should be resolved as per the will of the people of Kashmir.

Mr. Akram Zaki was of the view that although India has failed to hold plebiscite in Kashmir under UN Security Council resolutions, however, referendum is held every year as on August of 14, Pakistani flags are raised whereas on August 15, there is hardly any Indian flag seen flying. He said that it is generally said that Hindus and Buddhists of Jammu and Ladakh region would not like to join Pakistan. Perhaps this is true, but then this also validates “Two Nation Theory”. He said that the right of self-determination is a basic right and this right has been violated at two places – Kashmir and Palestine. In 1965, Pakistan failed to liberate Kashmir but the struggle was not abandoned. After 1971 war, Pakistan found itself in a very difficult position and the issue gradually lost its importance. After Zia, Kashmir issue was revived. Kashmir Day was started to be observed and the issue was raised at all international forums like OIC, EU and the UN. He also deplored the fact that the Kargil misadventure caused a great damage to the Kashmir cause. Talking about the recent unrest in Kashmir, Mr. Zaki said that India itself has accepted the fact that no other country was involved and it was an indigenous movement of the Kashmiri people. He hoped that the new government in Pakistan would carefully study the changing strategic environment in the region and take full advantage of it.

Mr. Yusuf Nasim talked at length about history of Kashmir dispute and articulated that India has violated the UN Resolutions and changed the demography of Kashmir across the Chenab River like in District of Jammu, Udhampur, Kathowa and Basoli etc. where non-Muslims are in majority now as the Kashmiris were forced to

leave those areas. He highlighted the fact that people of Kashmir always stick to Pakistan's approaches and want the peaceful resolution of Kashmir. He said that Kashmiris want Pak-India friendship but not at the stake of Kashmir. He stressed that Pakistan should adopt a sustained policy on the issue of Kashmir and the struggle for the independence of Kashmir would be uninterrupted till the victory.

Ambassador Saeed Khalid, while highlighting the concerns of international community regarding the massive abuses of human rights in Indian held Kashmir urged the international community to assert its weight to promote a peaceful solution to the Kashmir issue.

The presentations were followed by a question and answer session. A guest from the audience said that no mention has been made of one-third portion of Kashmir which is held by China. He also urged that Pakistan should take up the issue of violation of Indus Water Treaty and get its share of water. The Director General ISSI said that Indus Water Treaty is an agreement which has survived ups and downs of relationship between India and Pakistan and when there is a conflict, mechanism are there to deal with it. He also said that when the final settlement of Kashmir will take place, only then the issue of the portion of Kashmir with China can be raised.

Another guest strongly criticised Pakistan's decision to grant MFN status to India and said that the recent negotiations are total surrender and do not match Pakistan's national interest. Engr. Khurram Dastgir said that Pakistan is committed to increase trade with India but it will have to keep its eyes open. Issues like Sir Creek and Siachen should be solved on urgent basis. He shared his personal experience that Indians do not want to talk about issues other than trade. This is a very complex situation and would present a great challenge for the new government.

Dr. Attiya Inayatullah requested Engr. Khurram Dastgir being Chairman, Commerce Committee in the Parliament to appraise her whether granting of MFN

status to India was linked with Kashmir issue? Engr. Khuram Dastgir replied that granting of MFN status was not linked with the Kashmir issue and briefed the audience regarding the problems being faced by Pakistani traders at the hands of Indian officials at border.

Another guest wondered what kind of help Kashmir Committee could provide to facilitate participation of Kashmiri representatives in the dialogue process between India and Pakistan. Dr. Attiya Inayatullah replied that Kashmir Committee has recently put forth a resolution strongly suggesting that Kashmiris be made part of the dialogue process. She also emphasised the need to facilitate intra-Kashmir dialogue.

Concluding the Seminar, the Director General (ISSI) thanked all the speakers for sharing their views with the audience on the subject that is of great importance for Pakistan. He also thanked the audience for their active participation and making the event a success.

Prepared by:

*Mahwish Hafeez
Research Fellow*